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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.          | CONFIRMATION NO. |
|---|-------------|----------------------|------------------------------|------------------|
| 10/774,051  | 02/06/2004  | Bruce Wilson         | GUID.027US01                 | 4846             |
| 51294   | 7590        | 10/19/2005           |                              |                  |
| HOLLINGSWORTH & FUNK, LLC<br>8009 34TH AVE S.<br>SUITE 125<br>MINNEAPOLIS, MN 55425 |             |                      | EXAMINER<br>SIRMONS, KEVIN C |                  |
|   |             |                      | ART UNIT                     | PAPER NUMBER     |
|   |             |                      | 3767                         |                  |

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                               |                               |  |
|------------------------------|-------------------------------|-------------------------------|--|
| <b>Office Action Summary</b> | Application No.<br>10/774,051 | Applicant(s)<br>WILSON, BRUCE |  |
|                              | Examiner<br>Kevin C. Simons   | Art Unit<br>3767              |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2005.
- 2a) ☒ This action is **FINAL**.      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 18-20 is/are rejected.
- 7) ☒ Claim(s) 9 and 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Buchbinder et al U.S. Pat. No. 4,757,827.

Buchbinder discloses a guiding catheter system comprising: a flexible shaft having a distal end shaped (3, 23, 42 and 64); and a handle assembly (60 and/or 62) movably coupled to the flexible shaft, the flexible shaft selectably movable between a plurality of discrete position of a first degree-of-freedom defined relative to the flexible shaft (col. 4), the flexible shaft restrained in the first degree-of-freedom at each position of the plurality of discrete position (fig. 1), the flexible shaft movable through a predetermined displacement of a second degree-of-freedom defined relative to the flexible shaft at each position of the plurality of discrete positions (col. 4); and wherein motion of the flexible shaft relative to the handle assembly results in a controllable sweeping motion at the distal end the flexible shaft (col. 4); as to claims 2-3, (fig. 6); as to claim 5, (66); as to claim 5, (fig. 6); as to claim 6, (66); as to claims 7-8, (fig. 6); as to claims 18-20, (see above rejections).

***Allowable Subject Matter***

Claims 9 and 10 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments filed 8/1/05 have been fully considered but they are not persuasive.

Simply, Buchbinder clearly teaches a handle movably coupled to a flexible shaft, wherein the flexible shaft is selectably movable between a **plurality of discrete positions** of a first degree-of-freedom defined relative to the flexible shaft (figs. 1-3 and 6). Buchbinder additionally teaches a flexible shaft restrained in the first degree-of-freedom at each position of the plurality of discrete positions (col. 4). Note: Applicant has not indicated in the claims **how** the flexible shaft is being restrained in the first degree of freedom. The shaft could be restrained manually or by a mechanical structure. Furthermore, Buchbinder teaches a flexible shaft that is movable through a predetermined displacement of a second degree-of-freedom defined relative to the flexible shaft at each position of the plurality of discrete positions (figs. 1-3, 6 and col. 4). Finally, Buchbinder apparatus is fully capable of the various degrees of freedom because movements causes the distal end of the guidewire to deflect either toward or

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away from its longitudinal axis. For the record, the device of Buchbinder is fully capable of an infinite amount of degree of freedom.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin C. Sirmons whose telephone number is 571-272-4965. The examiner can normally be reached on Monday-Friday 6:30-4:00 ALT FRI.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kevin C. Sirmons  
Primary Examiner  
Art Unit 3763  
10/14/-5

A handwritten signature in cursive script, appearing to read "Kevin C. Sirmons".